IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 10076 of 1995

For Approval and Signature:

HONOURABLE MR.JUSTICE JAYANT PATEL

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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KANCHAN KESHAVLAL PATEL - Petitioner(s)

Versus

SURESHBHAI N DUDHIYA & 1 - Respondent(s)

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Appearance :

MR JITENDRA M PATEL for Petitioner(s) : 1, 1.2.1, 1.2.2,1.2.3
MR AJ PATEL for Respondent(s) : 1, 1.2.1, 1.2.2, 1.2.3,1.2.4 - 2, 2.2.1, 2.2.2,2.2.3
RULE SERVED for Respondent(s) : 1.2.5

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CORAM : HONOURABLE MR.JUSTICE JAYANT PATEL

Date : 11/10/2006

ORAL JUDGMENT

1. The petitioners have preferred the petition for challenging the legality and validity of the order passed by the Gujarat Revenue Tribunal dated 6.9.1995 (Annexure F) in revision application No.TEN.B.A.745 of 1993.
2. I have heard Mr.J.M.Patel, learned Counsel for the petitioners, Mr.A.J.Patel with Mr.Shetal Patel, learned Counsel for the private respondents.
3. The learned Counsel appearing for both the sides, at the outset, submitted that their respective clients have no objection, if this Court is of the view that the reasons are not recorded by the Tribunal properly and, therefore, the matter deserves to be remanded to the Tribunal for reconsideration.
4. The perusal of the order passed by the Tribunal shows that at para 4 the Tribunal has recorded the submissions made on behalf of the revisioning petitioner and the submissions made on behalf of the opponent before the Tribunal. The reasons, if are to be traced, the same are

at para 5, which are in all five line reasons, stating that there is no lawful possession of the applicant as agriculturist and the reasons recorded by the lower Court are proper and, therefore, there is no case of interference. In my view it was required for the Tribunal to record reasons, if not for dealing with each and every contention, but for supporting final order for rejection of the revision. When the Tribunal examined the matter in revisional jurisdiction, it was required for the Tribunal to examine the aspects as to whether the petitioner was holding the land as a tenant or was holding the land as employee/watchman of the landlord. It is true that while exercising the revisional jurisdiction the Tribunal may not be required to undertake the detailed scrutiny of appreciation and reappreciation of the documents, but at least the reasons were required on the crucial aspects for agreeing with the orders of the lower authority. No further discussion may be required since the learned Counsel appearing for both the sides

have also not invited further reasons by this Court as any observation of this Court on merits of the matter may prejudice the rights of either party in the proceedings. Therefore, suffice it to say that the order of the Tribunal which is impugned in this petition is not supported by the proper reasons and, therefore, the matter deserves to be remanded back to the Tribunal for a fresh decision.

5. In view of the aforesaid, the order passed by the Tribunal deserves to be quashed and set aside on the ground of non-recording of the sufficient reasons on the crucial aspects of the case as to whether the petitioner was in possession of the land as tenant or as the watchman/employee of the landlord. Under the circumstances, impugned order of the Tribunal is quashed and set aside with the further direction that the matter shall stand restored to the file of the Tribunal and the Tribunal shall give opportunity of hearing to both the sides and shall pass appropriate orders in accordance with law, as early as possible, preferably within a

period of three months from the date of receipt of the order of this Court.

6. Rule is made absolute to the aforesaid extent. Considering the facts and circumstances, there shall be no order as to costs.

11.10.2006 **(Jayant Patel, J.)**

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